

**Department of Personnel Administration  
Memorandum**

**TO: Personnel Management Liaisons (PML)**

<b>SUBJECT:</b> Heroes Earnings Assistance and Relief (HEART) Act of 2008	<b>REFERENCE NUMBER:</b> 2009-011
<b>DATE ISSUED:</b> 02/18/09	<b>SUPERSEDES:</b>

This memorandum should be forwarded to:

**Personnel Officers  
Personnel Transactions Supervisors  
Personnel Transactions Staff**

**FROM:** Department of Personnel Administration  
Benefits Division/FlexElect Program

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On June 17, 2008, the Heroes Earnings Assistance and Relief (HEART) Act of 2008 was signed into law. The Act amended Internal Revenue Code (IRC) 125, which allows military personnel called to duty the ability to receive taxable distribution of unused medical care spending account funds. This memo provides information on the impact to the State's FlexElect Program Medical Reimbursement Account (MRA). This distribution is not available to employees enrolled in a dependent care reimbursement account.

The Act defines the distribution as a "Qualified Reservist Distribution" (QRD). In order to be eligible for a QRD, the employee who is enrolled in a MRA must meet the following requirements:

1. Be a member of a "reserve component" (as defined in Section 101 of Title 37 of the United States Code), which means a member of the Army National Guard; the Reserve for the U.S. Army, Navy, Marine Corps, Air Force, Coast Guard; Air National Guard of the United States; or the Reserve Corps of the Public Health Services;
2. Be called or ordered to active military duty for (i) 180 days or more or (ii) for an indefinite period;
3. Be a participant in the MRA on the date called or ordered to duty; and
4. Satisfy the Plan's election requirements for a Qualified Reservist Distribution.

If an employee believes that he/she is eligible for a QRD, they must contact their Personnel Office to complete a distribution request form (DPA 902). The Personnel Office will need to confirm that the employee meets the QRD requirements reflected above. The form must be submitted by March 15th of the following year of participation to request a QRD. The form, DPA 902, is located on DPA's Web site at [www.dpa.ca.gov](http://www.dpa.ca.gov) in the forms directory.

The QRD can be made no earlier than the date the employee is called or ordered to duty and no later than the last date that reimbursements may be made for the Plan Year (i.e., March 15th of the following year of participation).

The amount of the QRD will be the remaining unused portion contributed to the Medical Reimbursement Account, less reimbursement received by the date of distribution in the plan year of participation. If the employee elects to receive a QRD, they will forfeit any right to additional reimbursement that would otherwise be available under the FlexElect Plan. Unlike the reimbursements from the MRA for eligible expenses, the amount of the QRD will be taxed as income and will be reported as income on the employee's W-2 for the tax year in which the distribution is paid.

How to request a QRD:

1. The employee must complete the DPA 902 form.
2. The department will certify that the employee meets the QRD requirements, and then submit the completed form to DPA Benefits Division – FlexElect Program at the address reflected on the form.

## **PERSONNEL OFFICES**

Please ensure that your employees are made aware of the Qualified Reservist Distribution requirements. Thank you for your cooperation. If you have any questions regarding this information, you may contact Susan Coats, Staff Personnel Program Analyst, at (916) 327-6429.

/s/Greg Beatty

Greg Beatty, Chief  
Benefits Division